

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

<b>ROBERT McFARLAND,</b>	:	
	:	
<b>Plaintiff</b>	:	<b>CIVIL ACTION NO. 19-0261</b>
	:	
<b>v.</b>	:	<b>(JUDGE MANNION)</b>
	:	
<b>ANDREW M. SAUL,<sup>1</sup></b>	:	
<b>Commissioner of Social</b>	:	
<b>Security,</b>	:	
	:	
<b>Defendant</b>	:	

**MEMORANDUM**

Presently before the court is the April 3, 2020 report and recommendation (“Report”) of Magistrate Judge Gerald B. Cohn, (Doc. 17), which recommends that the decision of the Commissioner of Social Security (“Commissioner”) be vacated and that this case be remanded to the Commissioner for further proceedings. Judge Cohn reviewed the record in this case pursuant to [42 U.S.C. §405\(g\)](#) to determine whether there is substantial evidence to support the Commissioner’s decision denying the plaintiff’s claim for Disability Insurance Benefits (“DIB”) under Title II of the Social Security Act, (“Act”). [42 U.S.C. §§401-433, 1381-1383f](#). Neither party

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<sup>1</sup> Andrew M. Saul was sworn in as Commissioner of Social Security on June 17, 2019 and is automatically substituted as the defendant in this action. See Fed.R.Civ.P. 25(d).

has filed objections to the Report, and the time within which objections were due has expired. For the following reasons, the report and recommendation will be **ADOPTED** and, plaintiff's appeal of the decision of the Commissioner, (Doc. 1), will be **GRANTED**. The Commissioner's decision will be **REVERSED** and, plaintiff's case will be **REMANDED** to the Commissioner.<sup>2</sup>

## I. STANDARD OF REVIEW

Where no objections are made to a report and recommendation, the court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." [Fed.R.Civ.P. 72\(b\)](#), advisory committee notes; see also [Univac Dental Co. v. Dentsply Intern., Inc.](#), 702 F.Supp.2d 465, 469 (2010) (citing [Henderson v. Carlson](#), 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every Report and Recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept or modify, in whole or in part, the findings or recommendations made by the magistrate judge. [28 U.S.C. §636\(b\)\(1\)](#); [M.D.Pa. Local Rule 72.3](#).

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<sup>2</sup> The court notes that since Judge Cohn stated the full procedural history of this case in his Report and since the parties did not object to it, the court will not repeat it herein.

## II. DISCUSSION

To properly form a decision supported with substantial evidence regarding an application for social security benefits, it is necessary for the ALJ, to analyze all probative evidence and set out the reasons for their decision. *Burnett v. Comm’r of Soc. Sec.*, 220 F.3d 112, 119-20 (3d Cir. 2000). Substantial evidence has been defined as “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Richardson v. Perales*, 402 U.S. 389, 401 (1971). It is more than a mere scintilla of evidence but may be less than a preponderance. *Brown v. Bowen*, 845 F.2d 1211, 1213 (3d Cir. 1988).

The court has reviewed the reasons presented by Judge Cohn for recommending that the plaintiff’s appeal of the Commissioner’s decision denying his claim for DIB be granted. Judge Cohn found that substantial evidence did not support the Commissioner’s finding that the plaintiff had the residual functional capacity to perform a full range of work at all exertional levels based on all of his physical limitations. Because the court agrees with the sound reasoning that led Judge Cohn to the conclusions in his report and finds no clear error on the face of the record, the court will adopt the report in its entirety.

### III. CONCLUSION

In light of the foregoing, Judge Cohn's Report, (Doc. 17), will be **ADOPTED IN ITS ENTIRETY**, and the Commissioner's decision will be **VACATED**. The plaintiff's appeal, (Doc. 1), will be **GRANTED**, and plaintiff's case will be **REMANDED** to the Commissioner. An appropriate order shall follow.

s/ Malachy E. Mannion

**MALACHY E. MANNION**  
**United States District Judge**

**DATE: August 3, 2020**

19-0261-01